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52. Through Defendants' marketing, labeling, and sales, Defendants knew that Plaintiffs and Class members would purchase the recalled pet food at issue for the ordinary purpose of feeding their pets.

53. Defendants manufactured, labeled, advertised, sold, and distributed the recalled pet foods at issue for the ordinary purpose for which it was purchased by Plaintiffs.

54. Plaintiffs and Class members purchased and used the recalled pet foods for the ordinary purposes for which such goods are sold, namely feeding them to their pets.

55. Plaintiffs and Class members relied upon Defendants' representations and claims in purchasing the recalled pet foods.

56. The recalled pet foods purchased by Plaintiffs and Class members were unfit for their ordinary purpose when sold. In fact, such pet foods were contaminated and caused severe illness and/or death of the pets that consumed them. Therefore, Defendants breached the implied warranty of merchantability in the sale of the recalled pet foods at issue.

57. Plaintiffs and members of the Class sustained damages as a proximate result of said breach of warranty.

COUNT III - NEGLIGENCE

58. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

59. Defendants owed a duty to pet owners who purchased its products to ensure that their pet food was safe for pets to consume and free from contamination, such that no pets consuming these products would be injured or die as a result of such consumption.

60. Defendants breached said duty as described herein above when they failed to

adhere to proper safety standards and failed to properly ensure the safety of their products when they sold contaminated pet food, proximately causing damage to Plaintiffs and members of the Class.

61. As a proximate result of the Defendants' conduct described herein, Plaintiffs and members of the Class have suffered damages as a result and continue to suffer damages as a result.

JURY DEMAND

Plaintiffs hereby request a trial by jury on all issues triable by right before a jury.

PRAYER FOR RELIEF

THEREFORE, Plaintiffs pray for judgment as follows:

1. That this Court certify this action as a Class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3), and appoint Plaintiffs and their counsel to represent the Class;
2. That this Court enter judgment and award damages in favor of Plaintiffs and the Class, and against Defendants under the theories alleged herein;
3. That this Court establish a fund for the medical monitoring of Plaintiffs' pets to discover and treat the extent of kidney damage these pets have suffered as a result of consuming Defendants' recalled pet food;
4. That this Court award Plaintiffs all attorneys' fees, expenses and costs of this suit;
5. That this Court award Plaintiffs pre-judgment and post-judgment interest at the maximum rate allowable by law, compounded daily; and

6. That this Court grant such other, further, and different relief that the Court deems necessary, just, and proper.

Dated: March 22, 2007

Respectfully submitted,

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Schedule A

Recalled Menu Foods' Pet Food Brands¹

¹ http://www.menufoods.com/recall/product_cat.html, accessed March 21, 2007;
http://www.menufoods.com/recall/product_dog.html, accessed March 21, 2007.

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Menu Foods
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Streetville
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1. [American Choice, Preferred Paks](#)
2. [Authority](#)
3. [Award](#)
4. [Best Choice](#)
5. [Big Eats](#)
6. [Big Red](#)
7. [Bloom](#)
8. [Cadillac](#)
9. [Companion](#)
10. [Dawgylas, Market Baskets](#)
11. [Eukanuba](#)
12. [Food Lion](#)
13. [Great Companion](#)
14. [Great Choice](#)
15. [Hannaford](#)
16. [Hill Country Fare](#)
17. [Hy-Vee](#)
18. [Iams](#)
19. [Kutta-Lynn](#)
20. [Loving Meals](#)
21. [Mellies Main Choice](#)
22. [Mighty Dog Pouch](#)
23. [Mixables](#)
24. [Nutriplan](#)
25. [Nutra Max](#)
26. [Nutra Natural Choice](#)
27. [Nutra Ultra](#)
28. [Nutra](#)
29. [OrRoy Canada](#)
30. [OrRoy US](#)
31. [Paws](#)
32. [Pet Essentials](#)
33. [Pet Pride - Good n Meaty](#)
34. [President's Choice](#)
35. [Price Chopper](#)
36. [Purdy's Canada](#)
37. [Priority 45](#)

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- 38. Publix
- 39. Roche Brothers
- 40. Save-A-Lot
- 41. Schnucks
- 42. Shop Rite
- 43. Savemore Foods
- 44. Spart
- 45. Stater Brothers
- 46. Stop & Shop Companion
- 47. Tops Companion
- 48. Wegmans Brother
- 49. Wells Total Pet
- 50. Western Family US
- 51. White Rose
- 52. Winn Dixie
- 53. Your Pet

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1. [America's Choice, Preferred Pets](#)
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3. [Best Choice](#)
4. [Companion](#)
5. [Compliments](#)
6. [Dempulas Market Basket](#)
7. [Eukanuba](#)
8. [Fine Feline Cat](#)
9. [Food Lion](#)
10. [Frogtown](#)
11. [Giant Companion](#)
12. [Hannaford](#)
13. [Hill Country Fare](#)
14. [Ivy-Vet](#)
15. [Jamps](#)
16. [Laura Luvn](#)
17. [M.F. Pet](#)
18. [Loving Meats](#)
19. [Mellie's Main Choice](#)
20. [Merrick](#)
21. [Nutro Max Gourmet Classics](#)
22. [Nutro Natural Choice](#)
23. [Paws](#)
24. [Pet Pride](#)
25. [President's Choice](#)
26. [Price Chopper](#)
27. [Priority Pet](#)
28. [Save-A-Lot](#)
29. [Schnucks](#)
30. [Science Diet Feline Savory Cuts Cans](#)
31. [Sophisticat](#)
32. [Special Kity Canada](#)
33. [Special Kity US](#)
34. [Springfield Petcare](#)
35. [Sprout](#)
36. [Stop & Shop Companion](#)
37. [Tops Companion](#)

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- 36. Wegmans
- 39. Wells, Tripp, Pet
- 40. Western Family US
- 41. White Rose
- 42. Winn Dixie

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